



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,333	08/09/2001	Thomas Mammone	01.38US	4422

7590 12/08/2004
Karen A. Lowney, Esq.
ESTEE LAUDER COMPANIES
125 Pinelawn Road
Melville, NJ 11747

EXAMINER

WHITE, EVERETT NMN

ART UNIT	PAPER NUMBER
----------	--------------

1623

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/925,333

Applicant(s)

MAMMONE ET AL.

Examiner

EVERETT WHITE

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-7,10-14 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,5-7,11-14,18 and 19 is/are allowed.
- 6) ☒ Claim(s) 4,10 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Reasons for Allowance*.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 6, 2004 has been entered.
2. The amendment filed January 23, 2004 has been received, entered and carefully considered. The amendment affects the instant application accordingly:
 - (A) Claims 2, 3, 8, 9, 15 and 16 have been canceled;
 - (B) Claims 1, 6, 7, 12, 13 and 19 have been amended;
 - (C) Comments regarding Office Action have been provided drawn to:
 - (i) 103(a) rejection, which has been withdrawn;
3. Claims 1, 4-7, 10-14 and 17-19 are pending in the case.
4. The text of those sections of title 35, U. S. Code not included in this action can be found in a prior Office action.

Non-compliant Amendment

5. The after-final amendment filed January 23, 2004 is considered non-compliant because it has failed to meet the requirements of 37 C.F.R. 1.121, as amended on June 30, 2003 (see *68 Fed. Reg. 38611*, June 30, 2003). Applicants may re-submit the changes to the claims set forth in the preliminary document in a properly executed amendment as part of the response to the current Office action. Specifically, Claims 2, 3, 8, 9, 15 and 16 are not properly canceled by setting forth the text of the claims.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 1623

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 4, 10, and 17** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In **Claim 4**, line 1, the term "phosphosugar" lacks clear antecedent basis by being dependent from Claim 1 since this term is not recited in Claim 1. The term "phosphosugar" in Claim 4 should be changed to - - mannose phosphate - -.

In **Claim 10**, line 1, the term "phosphosugar" lacks clear antecedent basis by being dependent from Claim 7 since this term is not recited in Claim 7. The term "phosphosugar" in Claim 10 should be changed to - - mannose phosphate - -.

In **Claim 17**, line 1, the term "phosphosugar" lacks clear antecedent basis by being dependent from Claim 13 since this term is not recited in Claim 13. The term "phosphosugar" in Claim 17 should be changed to - - mannose phosphate - -.

Allowable Subject Matter

8. Claims 1, 5-7, 11-14, 18 and 19 are allowed.

9. Claims 4, 10 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Reasons For Allowance

10. The following is an examiner's statement of reasons for allowance: The prior art of record does not teach or fairly suggest applying a mannose phosphate to skin in a method to exfoliate skin.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Summary

11. All the claims are rejected.

Examiner's Telephone Number, Fax Number, and Other Information

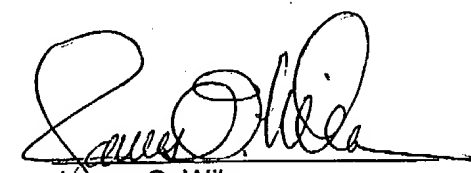
12. For 24 hour access to patent application information 7 days per week, or for filing applications, please visit our website at www.uspto.gov and click on the button "Patent Electronic Business Center" for more information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Everett White whose telephone number is (571) 272-0660. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson, can be reached on (571) 272-0661. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.


E.White


James O. Wilson
Supervisory Primary Examiner
Technology Center 1600